Submission from Peter Brash for the Legal Profession and Legal Aid (Scotland) Bill

I understand from The Law Society that you have indicated that their response to the earlier Consultation was treated as one response and not as a response on my behalf. I wish to register that I fully supported The Law Society when they made their response to the Consultation. I am surprised and disappointed that you are not prepared to listen to The Law Society and treat their response with the weight that it deserves.

I wish formerly to register my dissatisfaction with the current Legal Profession and Legal Aid (Scotland) Bill. I believe that the proposals contained in it will result in consumers being denied access to justice. I will be encouraging my partners in my firm to stop practising in certain areas that are more likely to give rise to complaints. We will probably immediately restrict our conveyancing and civil litigation areas. I will call upon the Law Society to produce the figures showing the areas that cause most complaints so that we can take appropriate action.

The proposals if enacted will undoubtedly leave some solicitors open to bankruptcy which will result in them being removed from practice. Those solicitors may not necessarily have been bad solicitors. The whole purpose behind having a Professional Indemnity policy is to protect not just the solicitor but the consumer. By increasing the compensation to £20,000 many consumers will decide to pursue claims free of charge to them. Not to charge the complainer for the process is totally unfair. Not to have a proper full hearing is contrary to EHCR legislation. It is insupportable to force solicitors by law to have insurance to protect the public and to some extent the solicitor and then provide an unfair mechanism to avoid the court system.

I do not believe the Commission as is proposed complies with the European Convention on Human Rights. There should be an independent and low cost right of appeal from any decision made by the Commission. A full hearing before the commission should be paramount.

I do not believe that individual employees of a firm should be found liable for any compensation. It is going to make it more difficult for small firms to attract individual solicitors if there is a possibility that they may share in any claim for compensation. I fully support the objection to the Bill lodged by The Law Society.

I look forward to hearing from you.